

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE**

John Michnovez, individually  
and as Executor of the Estate  
of Velma Michnovez; and  
Susan Michnovez

v.

Civil No. 10-cv-110-LM

Blair, LLC; and A-One Textile  
and Towel Industries

**O R D E R**


In an order dated August 24, 2011, document no. 78, the court indicated that pursuant to Rule 4(m) of the Federal Rules of Civil Procedure, plaintiffs' claims against A-One Textile and Towel Industries ("A-One") would be dismissed without prejudice on September 1 if, by that date, plaintiffs failed to submit a proper return of service or a motion to extend time to effect service. Plaintiffs have not responded to that order.

Upon further review, however, the court has determined that because A-One is a foreign corporation, service on it is not governed by the 120-day time limit stated in Rule 4(m). See Fed. R. Civ. P. 4(m) ("This subdivision (m) does not apply to service in a foreign country under Rule 4(f) or 4(j)(1)."); see also Nylok Corp. v. Fastener World Incorp., 396 F. 805, 807 (7th Cir. 2005) ("The explicit language of this rule makes it very

clear that the 120-day limit is inapplicable in cases involving service in a foreign country.").

While the 120-day deadline for service does not apply in this case, "the amount of time allowed for foreign service is not unlimited." Nylok, 396 F.3d at 807 (citing O'Rourke Bros. Inc. v. Nesbitt Burns, Inc., 201 F.3d 948, 952 (7th Cir. 2000)). Plaintiffs have filed a return of service, document no. 48, but it does not appear to document service that complies with Rules 4(h)(2) and (f)(1). As this case is progressing toward trial, plaintiffs are hereby ordered to show cause on or before October 24, 2011, why their claims against A-One should not be dismissed for failure to effect timely service.

SO ORDERED.



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Landya McCafferty  
United States Magistrate Judge

September 22, 2011

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